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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,949	07/21/2005	Toshiya Kudo	08295.0003-00000	9152
22852 7590 04/15/2008 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER VERLEY, NICOLE T				
ART UNIT		PAPER NUMBER		
3616				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,949

Applicant(s)

KUDO ET AL.

Examiner

NICOLE VERLEY

Art Unit

3616

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 12/18/2007.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In response to the Amendment filed on February 28, 2008, claims 1-13, 19 and 20 are pending, claims 14 - 18 are cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 - 4, 7, 9 - 12 and 19 - 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omura (US Patent Number 5,552,986) in view of Klingauf (US Patent Number 6,969,089).

Regarding claim 1, Figure 1A and 27 of Omura discloses means for predicting a collision with an object of collision (13), first winding control means (PT1) for controlling the winder so as to wind the seatbelt at a first winding load (F1) when a collision is

predicted by the collision predicting means (Column 4, lines 28 – 35, 45-48), means for detecting operation of a brake pedal (brake switch 116), second winding control means (PT2) for controlling the winder so as to wind the seatbelt at a second winding load (F2) which is larger than the first winding load (F1) when the brake pedal operation is detected by the brake detecting means. Omura discloses it is known to use a brake switch which produces a signal connected to a control unit to detect brake pedal operation (Column 1 lines 21 - 54) and discloses PT2 operates in response to a second command signal from a control circuit. So would be obvious to use the signal from the brake switch to control the winding load in the seatbelt (Column 4, lines 52 – 60). Also Mizutani discloses determination result by the collision prediction determination part is given results of pedal stroke sensor (Paragraph 36). Collision avoidance detecting means for detecting avoidance of the collision with the object and reasons for releasing control of the winder upon detection of the avoidance (Omura Column 6 lines 36-57).

Regarding claims 2 and 9, Figure 1A , 15 and 27, of Omura discloses means for predicting a collision with an object of collision (13); first winding control means (PT1) for controlling the winder (regarding claim 9) or adapted (regarding claim 2) to wind the seatbelt from a moment when the collision is predicted by the collision predicting means (13) while increasing the first (regarding claim 2) winding load (F1) of the seatbelt at a first rising gradient (Figure 15); brake detecting means (116) for detecting a brake pedal operation (Figure 27); and second winding control means (PT2) for controlling the winder or adapted (regarding claim 2) to wind the seatbelt while increasing the second (regarding claim 2) winding load of the seatbelt at a second rising gradient which is

larger than the first rising gradient from a moment when the brake pedal operation is detected by the brake detecting means (Figure 15) (Column 4, lines 28 – 35, 45 - 48, 52 – 60, Column 14, lines 25 - 37). Omura discloses it is known to use a brake switch which produces a signal connected to a control unit to detect brake pedal operation (Column 1 lines 21 - 54) and discloses PT2 operates in response to a second command signal from a control circuit. So would be obvious to use the signal from the brake switch to control the winding load in the seatbelt (Column 4, lines 52 – 60). Also Mizutani discloses determination result by the collision prediction determination part is given results of pedal stroke sensor (Paragraph 36). Collision avoidance detecting means for detecting avoidance of the collision with the object and reasons for releasing control of the winder upon detection of the avoidance (Omura Column 6 lines 36-57).

Regarding claims 7 and 12, Figure 1B of Omura discloses collision predicting means (12) continuously detects a length (Lc) from the vehicle in question (M2) to the object of collision (M1), and predicts the collision with the object of collision based on the detected length (Lc) which varies with time (Column 5, lines 9 – 16, 65 – 67, Column 6, lines 1 – 2).

Regarding to claims 3 and 4, Figure 15 of Omura teaches first rising gradient (regarding claim 4) and second rising gradient (regarding claim 3) (Column 14, lines 25 – 37). However Omura does not explicitly disclose gradient values. Klingauf teaches that it is known to use various gradient values of force over time as set forth in Figure 13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a value equal to or larger than 100N/80ms and smaller than

100N/100ms (regarding claim 4 and 11) and a value equal to or larger than 100N/100ms (regarding claim 3 and 10), since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omura as applied to claim 1 above, and further in view of Brambilla (US Publication Number 2001/0054816).

Omura teaches the first winding load (F2) (regarding claim 6) and the second winding load (F3) (regarding claim 5). It is noted that Omura does not disclose force values for F2 and F3. However, Brambilla discloses a first winding load (holding force) to a value between 80N and 120 N (claim 2) (regarding claim 6), a second winding load (pullback force) to a value equal to or larger than 150N (claim 2) (regarding claim 5). Omura and Brambilla are analogous art because they are from the same field of endeavor for seatbelt apparatus with a winder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a value between 80N and 120 N, as well as a value equal to or larger than 150N, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art.

Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omura as applied to claims 1 and 9 above, and further in view of Mizutani (US Publication Number 2004/0122573).

Omura teaches emergency break detecting means (16 and 17). It is noted that Omura does not disclose how the emergency brake detecting means detects the emergency braking state. However Mizutani discloses the emergency brake detecting means (100) detects the brake pedal operation based on at least any one of a pressing amount, a pressing speed, and pressing force of the brake pedal and a brake hydraulic pressure (page 3, paragraph 36). Omura and Mizutani are analogous art because they are from the same field of endeavor for seatbelt apparatus with a winder. At the time of invention, it would have been obvious to a person of ordinary skill in the art to use the Mizutani emergency braking detecting criteria for the Omura emergency brake detecting means. The motivation would have been to have a vehicle safety apparatus which prevents the actuation of the safety apparatus from being excessive in the case where an increase of the amount of brake operation is low. Furthermore, in the case of the increase being high, the actuation is controlled so as to fully bring out the performance of the safety apparatus (abstract).

Regarding claims 19 and 20 Omura discloses the collision avoidance detecting means releases control of the winder based on at least one of detecting steering operation by a vehicle driver, detecting stopping of the vehicle, and detecting passage of a period of time since operation of the first or second winding control means greater than a preset period of time. The collision avoidance detecting means releases control of the winder based on at least one of detecting steering operation by a vehicle driver, detecting stopping of the vehicle, and detecting passage of a period of time since

operation of the first or second winding control means greater than a preset period of time (Column 6 lines 36-57).

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE VERLEY whose telephone number is (571)270-3542. The examiner can normally be reached on 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NV

/Kevin Hurley/
Acting SPE of Art Unit 3616